

MONTANA LEGISLATIVE HISTORY

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Chapter 351 19 93

Bill H 281 S _____ Original bill & history C

H. Committee on Fish & Game

Hearing Date(s) Jan 28 ☒ C

Feb 02 ☒ C

_____ C

_____ C

Date Out Feb 03 ☒ C

S. Committee on Highways & Transportation

Hearing Date(s) Mar 02 ☒ C

Mar 09 ☒ C

_____ C

_____ C

Mar 09 ☒ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

3/24 RETURNED TO HOUSE
 3/24 SIGNED BY SPEAKER
 3/25 SIGNED BY PRESIDENT
 3/25 TRANSMITTED TO GOVERNOR
 3/30 SIGNED BY GOVERNOR
 CHAPTER NUMBER 228
 EFFECTIVE DATE: 03/30/93

HB 280 INTRODUCED BY GILBERT, ET AL.
 GENERALLY REVISE MONTANA SUBDIVISION AND PLATTING ACT

1/19	INTRODUCED		
1/20	REFERRED TO NATURAL RESOURCES		
1/20	FIRST READING		
1/21	FISCAL NOTE REQUESTED		
1/28	FISCAL NOTE RECEIVED		
1/29	FISCAL NOTE PRINTED		
2/03	HEARING		
2/16	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/17	2ND READING PASSED AS AMENDED	79	21
2/19	3RD READING PASSED	68	29
	TRANSMITTED TO SENATE		
2/22	FIRST READING		
2/22	REFERRED TO NATURAL RESOURCES		
3/19	HEARING		
3/30	TABLED IN COMMITTEE		
3/31	MOTION FAILED TO TAKE FROM COMMITTEE AND PLACE ON 2ND READING	21	29

HB 281 INTRODUCED BY GRADY, ET AL.
 GENERALLY REVISE SNOWMOBILE LAWS

1/19	INTRODUCED		
1/20	REFERRED TO FISH & GAME		
1/20	FIRST READING		
1/20	FISCAL NOTE REQUESTED		
1/27	FISCAL NOTE RECEIVED		
1/28	HEARING		
1/29	FISCAL NOTE PRINTED		
2/04	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/08	2ND READING PASSED	55	44
2/10	3RD READING PASSED	74	24
	TRANSMITTED TO SENATE		
2/12	FIRST READING		
2/12	REFERRED TO HIGHWAYS & TRANSPORTATION		
3/02	HEARING		
3/10	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/11	2ND READING CONCURRED	48	0
3/12	3RD READING CONCURRED	48	0
	RETURNED TO HOUSE WITH AMENDMENTS		
3/31	2ND READING AMENDMENTS CONCURRED	74	24
4/02	3RD READING AMENDMENTS CONCURRED	82	17
4/07	SIGNED BY SPEAKER		
4/13	SIGNED BY PRESIDENT		
4/14	TRANSMITTED TO GOVERNOR		
4/16	SIGNED BY GOVERNOR CHAPTER NUMBER 351 EFFECTIVE DATE: 04/16/93		

HOUSE BILL NO. 281

INTRODUCED BY GRADY, FORRESTER, LARSON

IN THE HOUSE

JANUARY 20, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON FISH & GAME.
	FIRST READING.
FEBRUARY 4, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 5, 1993	PRINTING REPORT.
FEBRUARY 8, 1993	SECOND READING, DO PASS.
FEBRUARY 9, 1993	ENGROSSING REPORT.
FEBRUARY 10, 1993	THIRD READING, PASSED. AYES, 74; NOES, 24.
FEBRUARY 11, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 12, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON HIGHWAYS & TRANSPORTATION.
	FIRST READING.
MARCH 10, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 11, 1993	SECOND READING, CONCURRED IN.
MARCH 12, 1993	THIRD READING, CONCURRED IN. AYES, 48; NOES, 0.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 31, 1993	SECOND READING, AMENDMENTS CONCURRED IN.
APRIL 2, 1993	THIRD READING, AMENDMENTS CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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House BILL NO. 281
INTRODUCED BY Andy E. Tomlinson Tolson

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO SNOWMOBILES; ADOPTING ALCOHOL CONCENTRATION STANDARDS APPLICABLE TO DRIVING A SNOWMOBILE WHILE UNDER THE INFLUENCE OF ALCOHOL; EXEMPTING RACING SNOWMOBILES FROM CERTIFICATION AND REGISTRATION REQUIREMENTS; AMENDING SECTIONS 23-2-602, 23-2-611, 23-2-615, 23-2-616, 23-2-619, 23-2-632, 23-2-634, 23-2-635, 23-2-641, 23-2-642, AND 23-2-654, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 23-2-602, MCA, is amended to read:

"23-2-602. Report of stolen and recovered snowmobiles.

The sheriff of every county of the state and the chief of police or commissioner of police of every city shall make an immediate report to the department of justice of all snowmobiles reported to--him as stolen or recovered, upon forms provided by the department of justice. Upon receipt of such the information, the department of justice shall file the same report in an index to be known as the "stolen and recovered snowmobile index". The department of justice shall file reports of stolen and recovered snowmobiles reported to it from other states. Once a month the department of justice

1 shall prepare a list of all snowmobiles stolen or recovered
2 during the previous month and forward a copy of the same
3 list to every sheriff and all police departments in cities
4 of the first, second, and third class. Such The list shall
5 must also be forwarded to the secretary-of--state--or--other
6 proper official in each state of the United States. Before a
7 certificate of ownership may be issued under 23-2-601
8 through 23-2-644, the motor and serial number on the
9 snowmobile for which such the certificate is to be issued
10 shall must be checked against the stolen and recovered
11 snowmobile index."

Section 2. Section 23-2-611, MCA, is amended to read:

"23-2-611. Certificate of ownership -- filing of security interests. (1) A snowmobile may not be operated upon any private or public lands, trails, easements, lakes, rivers, streams, roadways or shoulders of roadways, streets, or highways unless a certificate of ownership has first been obtained from the department of justice in accordance with the laws of this state. A certificate of ownership is not required for a snowmobile purchased prior to [the effective date of this act] if use of the snowmobile is restricted to private land.

(2) The owner of a snowmobile shall apply for a certificate of ownership with the county treasurer of the county in which the owner resides, upon forms to be

furnished for this purpose. The forms must require the following information:

- (a) the name of the owner;
- (b) the residence of the owner, by town and county;
- (c) the business or home ~~mail~~ mailing address of the owner;
- (d) the name and address of any lienholder;
- (e) the amount due under any contract or lien;
- (f) the name of the manufacturer;
- (g) the model number or name;
- (h) the identification number; and
- (i) the name and address of the dealer or other person from whom acquired.

(3) The application must be accompanied by documentation of ownership, such as an invoice, notarized bill of sale from the immediately previous owner, foreign title, official certificate of snowmobile number, or fee in lieu of tax receipt.

(4) The application must be signed by at least one owner or by a properly authorized officer or representative of the owner.

(4)(5) If a certificate of ownership has previously been issued under the provisions of 23-2-601 through 23-2-644, the application for a new certificate must be accompanied by the immediately previous certificate. This

subsection does not apply to snowmobiles that are purchased as new and unused machines or that were operated when the provisions of 23-2-601 through 23-2-644 were not in force and effect.

(5)(6) Upon completion of the application, on forms furnished by the department of justice, the county treasurer shall issue to the applicant two copies of the application, one of which must be marked "file copy". The treasurer shall forward one copy and the original application to the department of justice, which shall enter the information contained in the application upon the corresponding records of its office and shall furnish the applicant a certificate of ownership, which must contain that information in the application considered necessary by the department of justice, and a permanent ownership number. The certificate of ownership is not to be renewed annually and is valid as long as the person holding it owns the snowmobile.

(6)(7) The owner shall at all times retain possession of the certificate of ownership, except when it is being transmitted to and from the department of justice for endorsement or cancellation.

(7)(8) Upon application for a certificate of ownership, a fee of \$5 must be paid to the county treasurer, \$3.50 of which must be forwarded by the county treasurer to the department of justice and deposited in the general fund.

1 †8†(9) A security interest in a snowmobile is not valid
 2 as against creditors, subsequent purchasers, or
 3 encumbrancers unless a lien notice, showing that a security
 4 interest has been created, has been perfected as provided in
 5 this section. The lien notice must be filed on a form
 6 approved by the department of justice. The department of
 7 justice may not file a security interest or other lien
 8 unless it is accompanied by or specified in the application
 9 for a certificate of ownership of the snowmobile encumbered.
 10 If the lien notice is transmitted to the department of
 11 justice, the security agreement or other lien instrument
 12 that creates the security interest must be retained by the
 13 secured party. A copy of the security agreement is
 14 sufficient as a lien notice if it contains the name and
 15 address of the debtor and the secured party, the complete
 16 snowmobile description, the amount of the lien, and the
 17 signature of the debtor. The department of justice shall
 18 file the security interest or lien by entering the name and
 19 address of the secured party upon the face of the
 20 certificate of ownership. The department of justice shall
 21 mail a statement certifying the filing of a security
 22 interest or lien to the secured party. The department of
 23 justice shall mail the certificate of ownership to the owner
 24 at the address given on the certificate; however, if the
 25 transfer of ownership and filing of the security interest

1 are paid for by a creditor or secured party, the department
 2 of justice shall return the certificate of ownership to the
 3 county treasurer of the county in which the snowmobile is to
 4 be registered. The owner of a snowmobile is the person
 5 entitled to operate and possess the snowmobile.

6 †9†(10) A security interest in a snowmobile held as
 7 inventory by a dealer must be perfected in accordance with
 8 Title 30, chapter 9, and no endorsement on the certificate
 9 of title is not necessary for perfection.

10 †10†(11) Whenever a security interest or lien is filed
 11 against a snowmobile that is subject to two security
 12 interests previously perfected under this section, the
 13 department of justice shall endorse on the face of the
 14 certificate of ownership: "NOTICE. This snowmobile is
 15 subject to additional security interest on file with the
 16 Department of Justice". No ~~other~~ Other information regarding
 17 the additional security interests need not be endorsed on
 18 the certificate.

19 †11†(12) Satisfactions or statements of release filed
 20 with the department of justice under this part must be
 21 retained for a period of 8 years after receipt, after which
 22 they may be destroyed.

23 †12†(13) A security interest or other lien as provided
 24 in this section is perfected on the date the lien notice is
 25 delivered to the county treasurer. On that date, the county

1 treasurer shall issue to the secured party a receipt
2 evidencing the perfection. Perfection under this section
3 constitutes constructive notice to subsequent purchasers or
4 encumbrancers, from the date of delivery of the lien notice
5 to the county treasurer, of the existence of the security
6 interest.

7 {13}{14} Upon default under a chattel mortgage or
8 conditional sales contract covering a snowmobile, the
9 mortgagee or vendor has the same remedies as in the case of
10 other personal property. In case of attachment of a
11 snowmobile, all the provisions of 27-18-413, 27-18-414, and
12 27-18-804 are applicable, except that deposits must be made
13 with the department of justice.

14 {14}{15} A conditional sales vendor or chattel mortgagee
15 or assignee who fails to file a satisfaction of a chattel
16 mortgage, assignment, or conditional sales contract within
17 15 days after receiving final payment is required to pay the
18 department of justice the sum of \$1 for each day that he
19 ~~fails-to-file~~ the satisfaction is not filed.

20 {15}{16} Upon receipt of any liens, notice of liens
21 dependent on possession, or attachments against the record
22 of any snowmobile registered in this state, the department
23 of justice shall within 24 hours mail to the owner,
24 conditional sales vendor, mortgagee, or their assignee a
25 notice showing the name and address of the lien claimant,

1 the amount of the lien, the date of execution of the lien,
2 and, in the case of attachment, the full title of the court,
3 the action, and the name of the attorney for the plaintiff
4 or the name of the attaching creditor, or both.

5 {16}{17} It is not necessary to refile with the
6 department of justice any instruments on file in the office
7 of the county clerk and recorder on October 1, 1989.

8 {17}{18} A fee of \$4 must be paid to the department of
9 justice to file any security interest or other lien against
10 a snowmobile. The \$4 fee must cover the cost of filing a
11 satisfaction or release of the security interest and the
12 cost of entering the satisfaction or release on the records
13 of the department of justice and deleting the endorsement of
14 the security interest from the face of the certificate of
15 ownership. A fee of \$4 must be paid to the department of
16 justice for issuing a certified copy of a certificate of
17 ownership subject to a security interest or other lien on
18 file with the department of justice or for filing an
19 assignment of a security interest or other lien on file with
20 the department of justice. All fees provided for in this
21 section must be paid to the county treasurer for deposit in
22 the general fund in accordance with 15-1-504."

23 **Section 3.** Section 23-2-615, MCA, is amended to read:

24 "23-2-615. Nonresident temporary-use permits -- use of
25 fees. (1) The requirements pertaining to the nonresident

1 temporary-snowmobile-use permit are as follows:

2 (a) Application for the issuance of the permit ~~shall~~
3 must be made at locations and upon forms prescribed by the
4 department. The forms ~~shall~~ must include but are not limited
5 to:

- 6 (i) the applicant's name and permanent address;
- 7 (ii) the make, model, year, and serial number of the
8 snowmobile; and
- 9 (iii) an affidavit declaring the nonresidency of the
10 applicant.

11 (b) Upon submission of the application and a fee of \$6,
12 a nonresident temporary-snowmobile-use sticker ~~shall~~ must be
13 issued. The sticker ~~shall~~ must be displayed in a conspicuous
14 manner on the snowmobile.

15 (2) The temporary permit is valid for a consecutive
16 30-day period as designated by the permit.

17 (3) The permit is not proof of ownership, and no a
18 certificate of ownership may not be issued.

19 (4) A nonresident temporary-snowmobile-use permit is
20 not required for a snowmobile that qualifies as a racing
21 snowmobile under [section 13].

22 (5) All money collected by payment of fees under this
23 section ~~shall~~ must be turned over to the state treasurer and
24 placed in the state special revenue fund to the credit of
25 the department of fish, wildlife, and parks, with one-half

1 to be used in administering this section and one-half to be
2 used in the development, maintenance, and operation of
3 snowmobile facilities.

4 ~~(5)(6)~~ The failure to display the permit as required by
5 this section or the making of false statements in obtaining
6 the permit is a misdemeanor, punishable by a fine of not
7 less than \$25 or more than \$100."

8 **Section 4.** Section 23-2-616, MCA, is amended to read:

9 "23-2-616. Registration and decals -- application and
10 issuance -- use of certain fees. (1) No A snowmobile may not
11 be operated on public lands by any person in Montana unless
12 it has been registered and there is displayed in a
13 conspicuous place on both sides of the cowl a decal as
14 visual proof that the fee in lieu of property tax has been
15 paid on it for the current year and the immediately previous
16 year as required by 15-16-202.

17 (2) Application for registration ~~shall~~ must be made to
18 the county treasurer upon forms to be furnished by the
19 department of justice for this purpose, which may be
20 obtained at the county treasurer's office in the county
21 where the owner resides. The application shall contain the
22 following information:

- 23 (a) the name and address of the owner;
- 24 (b) the certificate of ownership number;
- 25 (c) the make of the snowmobile;

(d) the model name of the snowmobile;

(e) the year of manufacture;

(f) a statement evidencing payment of the fee in lieu of property tax as required by 15-16-202; and

(g) such other information as the department of justice may require.

(3) The application ~~shall~~ must be accompanied by a decal fee of \$2 \$5, a registration fee of 50 cents, and, if the snowmobile has previously been registered, by the registration certificate for the most recent year in which the snowmobile was registered. The treasurer shall sign the application and issue a registration receipt ~~which-shall~~ that must contain information considered necessary by the department of justice and a listing of fees paid. The owner shall retain possession of the registration receipt until it is surrendered to the county treasurer for reregistration or to a purchaser or subsequent owner pursuant to a transfer of ownership.

(4) The county treasurer shall forward the signed application to the department of justice and shall issue to the applicant a decal in the style and design prescribed by the department of justice and of a different color than the preceding year, numbered in sequence.

(5) The county treasurer may not accept any application under this section until the applicant has paid the decal

and registration fees and the fee in lieu of property tax on the snowmobile for the current year and the immediately previous year as required by 15-16-202.

(6) All money collected from payment of the decal fees and all interest accruing from use of this money ~~shall~~ must be forwarded to the state treasurer and placed in the state special revenue fund to the credit of the department, with \$1 \$2.50 designated for use in enforcing the purposes of 23-2-601 through 23-2-644 and \$1 \$2.50 designated for use in the development, maintenance, and operation of snowmobile facilities. All money collected from payment of the registration fee ~~shall~~ must be forwarded to the state treasurer and deposited in the general fund.

(7) The county treasurer shall credit all fees in lieu of tax collected on snowmobiles to the county motor vehicle suspense fund provided for in 61-3-509."

Section 5. Section 23-2-619, MCA, is amended to read:

"23-2-619. Dealer registration certificate -- use of fees. (1) A dealer registration certificate ~~shall~~ must be issued in accordance with 23-2-601 through 23-2-644.

(2) The dealer application ~~shall~~ must be accompanied by an application fee of \$5 and a registration fee of \$5. Upon receipt of the dealer application and payment of fees, the dealer shall be issued two dealer snowmobile identification cards ~~which-shall~~ that must be carried by the dealer or the

1 dealer's customer when demonstrating the dealer's
2 snowmobiles.

3 (3) No A bond is not required of the dealer.

4 (4) The dealer shall have a principal place of business
5 where he the dealer shall maintain all his business records
6 and display and sell merchandise.

7 (5) An applicant for renewal of a snowmobile dealer
8 registration shall certify that he the applicant has sold 3
9 5 or more snowmobiles during the preceding year or pay an
10 additional \$50 renewal registration fee or provide a copy of
11 a written new snowmobile franchise or sales agreement that
12 the applicant has with a manufacturer, importer, or
13 distributor.

14 (6) Additional dealer snowmobile identification cards
15 as required by need justified to the department of justice
16 may be purchased by the dealer for a fee of \$2.

17 (7) Dealer registration certificates and identification
18 cards expire on June 30 following the date of issuance.

19 (8) (a) The dealer application fees and all interest
20 accruing from use of this money ~~shall~~ must be deposited in
21 the state special revenue fund to the credit of the
22 department, with one-half designated for use in enforcing
23 the purposes of 23-2-601 through 23-2-644 and one-half
24 designated for use in the development, maintenance, and
25 operation of snowmobile facilities.

1 (b) All money collected from dealer registration and
2 renewal registration fees ~~shall~~ must be deposited in the
3 general fund."

4 **Section 6.** Section 23-2-632, MCA, is amended to read:

5 "23-2-632. Unlawful operation on-streets-and-highways
6 of snowmobiles. (1) It is unlawful for a person to operate a
7 snowmobile on a public street, or public highway,
8 established snowmobile trail, public snowmobile area on
9 public lands or waters, or lands or waters under easement or
10 lease for snowmobiling and adjacent snowmobiling areas on
11 private lands or waters where public snowmobiling is
12 permitted:

13 (a) at a rate of speed greater than provided by law for
14 motor vehicles;

15 (b) while under the influence of intoxicating liquor in
16 violation of the alcohol concentration standards established
17 in [section 12] or while under the influence of narcotics or
18 habit-forming drugs;

19 (c) in a careless or reckless manner so as to endanger
20 the person or property of another or to cause injury or
21 damage to either; or

22 (d) if that person by reason of age or mental or
23 physical disability is incapable of operating the snowmobile
24 safely under the prevailing circumstances.

25 (2) It is unlawful to permit the operation of a

1 snowmobile ~~on--a--public--street--or--highway~~ in violation of
2 subsection (1) by a person who by reason of age or physical
3 or mental disability is incapable of operating the
4 snowmobile safely under the prevailing circumstances."

5 **Section 7.** Section 23-2-634, MCA, is amended to read:

6 "23-2-634. Regulation of snowmobile noise. (1) Except
7 as provided in this section, every snowmobile ~~shall~~ must be
8 equipped at all times with noise-suppression devices,
9 including an exhaust muffler in good working order and in
10 constant operation. No A snowmobile may not be modified by
11 any person in any manner that will amplify or otherwise
12 increase total noise emissions to a level greater than that
13 emitted by the snowmobile as originally constructed,
14 regardless of date of manufacture.

15 (2) Every person who owns or operates a snowmobile
16 manufactured after June 30, 1972, but prior to June 30,
17 1975, shall maintain ~~his~~ the machine in such a manner that
18 it will not exceed a sound level limitation of 82 dbA
19 measured at 50 feet.

20 (3) No-new A snowmobile manufactured after June 30,
21 1975, except snowmobiles designated for competition purposes
22 only, may not be sold or offered for sale unless that
23 machine has been certified by the manufacturer as being able
24 to conform to a sound level limitation of not more than 78
25 dbA measured at 50 feet. Every person who owns or operates a

1 snowmobile manufactured after June 30, 1975, shall maintain
2 ~~his~~ the machine in such a manner that it will not exceed a
3 sound level limitation of 78 dbA measured at 50 feet.

4 (4) A manufacturer who certifies that a new snowmobile
5 can comply with the noise limitation requirements of
6 23-2-601 through 23-2-644 shall affix a permanent notice of
7 that certification to every snowmobile offered for sale in
8 the state of Montana.

9 (5) In certifying that a new snowmobile can comply with
10 the noise limitation requirements of 23-2-601 through
11 23-2-644, a manufacturer shall make ~~such-a~~ the certification
12 based upon measurements made in accordance with SAE
13 recommended practice J192, as amended. The department, in
14 enforcing the provisions of this section, shall make
15 measurements of snowmobile noise in accordance with
16 applicable practices outlined in the "Procedure for Sound
17 Level Measurements of Snowmobiles" (January, 1969), as
18 amended, used by the international snowmobile industry
19 association or with ~~such~~ other standards for measurement of
20 sound level as the department may adopt.

21 (6) This section does not apply to organized races or
22 similar competitive events held on:

23 (a) private lands or waters, with the permission of the
24 owner, lessee, or custodian of the land or waters; or

25 (b) public lands or waters, with the consent of the

public agency having the authority to grant such consent, provided--that--total--sound--produced--by--such--an--event--may--not exceed--50--dba--at--any--point--50--feet--or--more--outside--the--area under--the--control--of--the--sponsoring--entity."

Section 8. Section 23-2-635, MCA, is amended to read:

"23-2-635. Accidents involving snowmobiles. The owner or operator of a snowmobile, which that is involved in any accident, collision, or upset upon--a--public--street--or highway--where in which personal injury occurs to any person or where in which property damage exceeds \$100 \$750, shall report the accident or occurrence to a--state--or--local the nearest law enforcement agency responsible-for-collecting reports-of-accidents-involving-motor-vehicles. An accident involving property damage only must be reported within 48 hours of the occurrence. An accident involving personal injury or a fatality must be reported immediately or as soon as practicable."

Section 9. Section 23-2-641, MCA, is amended to read:

"23-2-641. Enforcement. (1) ~~The following persons may enforce the provisions of--23-2-601--through--23-2-644--the enforcement--officers--employed--by--the--department,--with respect--to--violations--relating--to--wildlife--or--birds, discharging--firearms,--or--sound--level--limitations,--However, with~~ With respect to the sale of any new snowmobile which that is subject to the provisions of 23-2-601 through

23-2-644, the attorney general ~~of--the--state--of--Montana~~ shall, upon the request of the department, sue for the recovery of the penalties provided in 23-2-642 and bring an action for a restraining order or temporary or permanent injunction against a person who sells or offers to sell a new snowmobile that does not satisfy the sound level limitations imposed by 23-2-601 through 23-2-644.

(2) (a) The department is a criminal justice agency for the purpose of obtaining the technical assistance and support services provided by the board of crime control under the provisions of 44-4-301. Authorized officers of the department are granted peace officer status with the power:

(i) of search, seizure, and arrest;

(ii) to investigate activities in this state regulated by this part and rules of the department and the fish, wildlife, and parks commission; and

(iii) to report violations to the county attorney of the county in which they occur.

(b) Sheriffs and their deputies of the various counties of the state, the Montana highway patrol, authorized officers of the department, and the police of each municipality shall enforce the provisions of 23-2-601 through-23-2-644 this part."

Section 10. Section 23-2-642, MCA, is amended to read:

"23-2-642. Penalties. (1) The failure to display a

current decal indicating that the fee in lieu of property tax has been paid on the snowmobile for the current year during the time provided in 23-2-601 through 23-2-644 is a misdemeanor, punishable by a fine of not less than \$10 or more than \$50 in an amount equal to five times the applicable fee in lieu of tax payable under 23-2-615.1.

(2) A person who violates any other provision of 23-2-601 through 23-2-644 or a rule adopted pursuant thereto to those sections shall pay a civil penalty of not less than \$15 or more than \$500 for each separate violation.

~~(3)--A person who willfully violates any other provision of 23-2-601 through 23-2-644--or--a--rule--adopted--pursuant thereto~~ If the violation is willful, the person shall pay a civil penalty of not less than \$50 or more than \$1,000 for each separate violation.

~~(4)(3)~~ A manufacturer who certifies that a new snowmobile can meet the sound level limitations imposed by 23-2-601 through 23-2-644 ~~shall be~~ is subject to the penalty provisions of subsections subsection (2) and ~~(3)~~ if any machine so certified does not meet the appropriate sound level limitation. For the purposes of this section, every sale of a new snowmobile that does not meet the sound level limitations imposed by 23-2-601 through 23-2-644 constitutes a separate violation."

Section 11. Section 23-2-654, MCA, is amended to read:

"23-2-654. Snowmobiler's assumption of responsibility -- duties. (1) A snowmobiler ~~assumes--the--risk--and shall accept~~ all legal responsibility for death--or injury or damage of any kind to the extent that the injury or damage results from risks inherent in the sport of snowmobiling and has the duty to regulate personal conduct at all times so that injury to himself self or other persons or property that results from the risks inherent in the sport of snowmobiling is avoided. The ~~assumption-of-risk--includes--but is--not--limited--to--death--or--injury--caused--by--the--following:~~ risks inherent in the sport of snowmobiling include variations in terrain, surface or subsurface snow or ice conditions, cornices, avalanches, poor visibility, bare spots, rocks, trees, other forms of forest growth or debris, and plainly marked trail maintenance equipment.

(2) A snowmobiler is responsible for:

(a) knowing the range of his the snowmobiler's own ability to snowmobile any slope, trail, or area and for snowmobiling within the limits of his the snowmobiler's ability considering the conditions;

(b) maintaining control of his speed and course at all times while snowmobiling;

(c) heeding all posted warnings; and

(d) refraining from acting in a manner that may cause or contribute to the injury of anyone.

1 (3) The provisions of this section do not affect a
2 products liability cause of action based upon the design or
3 manufacture of snowmobile equipment or products or safety
4 equipment used incidental to the operation of a snowmobile."

5 NEW SECTION. Section 12. Alcohol concentration
6 standards -- evidence admissible -- administration of tests.

7 (1) The inferences contained in 61-8-401(4) apply to any
8 criminal action or proceeding arising out of acts alleged to
9 have been committed in violation of 23-2-632(1)(b).

10 (2) Evidence of any measured amount or detected
11 presence of alcohol in a person at the time of the act
12 alleged, as shown by analysis of the person's blood, breath,
13 or urine, and any other competent evidence bearing on the
14 question of whether the person was under the influence of
15 alcohol, drugs, or a combination of the two at the time of
16 the act alleged is admissible in any criminal action or
17 proceeding arising out of acts alleged to have been
18 committed in violation of 23-2-632(1)(b).

19 (3) If a person charged with violation of
20 23-2-632(1)(b) refuses to submit to a test of blood, breath,
21 or urine for the purpose of determining any measured amount
22 or detected presence of alcohol, none will be given, but
23 proof of refusal is admissible in any criminal action or
24 proceeding arising out of acts alleged to have been
25 committed in violation of 23-2-632(1)(b).

1 (4) The provisions relating to administration of tests
2 provided in 61-8-405 and the definition of alcohol
3 concentration provided in 61-8-407 apply to any testing done
4 to a person charged with violation of 23-2-632(1)(b).

5 (5) As used in 23-2-632(1)(b), the term "under the
6 influence" has the meaning provided in 61-8-401(3).

7 NEW SECTION. Section 13. Registration of racing
8 snowmobile not required. A snowmobile built or used
9 exclusively for racing in sanctioned competitive events or
10 organized races, including testing areas designated by the
11 sponsoring entity, is exempt from the certificate of
12 ownership requirements of 23-6-611 and registration under
13 23-2-616.

14 NEW SECTION. Section 14. Effective date. [This act] is
15 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0281, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising the laws relating to snowmobiles, adopting alcohol concentration standards applicable to driving snowmobile under the influence of alcohol, and exempting racing snowmobiles from certification and registration requirements effective immediately.

ASSUMPTIONS:

1. Based on information from the Department of Justice Motor Vehicle Division, the average number of registered snowmobiles in Montana is 15,000 and the total number of snowmobiles is approximately 50,000.
2. Department of Fish, Wildlife and Parks (FWP) wardens currently are trained to enforce alcohol concentration standards on boats. The fiscal impact to enforce these standards on snowmobiles will be negligible.
3. Operating and equipment costs in the FWP may increase but the estimated amount is undeterminable. This is based upon the assumption that more warden time is spent on enforcing these new provisions.
4. The bill requires that snowmobiles purchased after the effective date of this act and operated upon private lands must have a certificate of ownership. Of the \$5 certificate of ownership fee, \$3.50 is deposited in the state general fund and the remaining \$1.50 is retained by the county treasurer. This change may increase general fund and county revenues, but the amount is not subject to reasonable estimate.

FISCAL IMPACT:

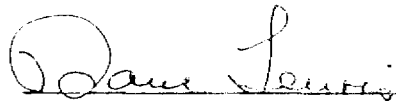
Revenues:

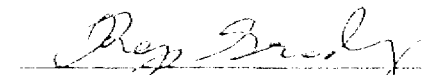
1. The minimum penalty for not displaying a registration decal will be increased from \$10 to \$75. Assuming that non compliance remains at the current level and judges fine violators twice the previous amount, fine revenue will increase by \$3,300 a year (state special revenue).
2. The decal fee will increase from \$2 to \$5, increasing the FWP decal fee state special revenue from \$30,000 (assuming 15,000 registered snowmobiles) to \$75,000 per year. (state special revenue).

Net Impact: FWP state special revenue from snowmobile decal fees and fines will increase \$48,300 each year.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES: County treasurers receive \$1.50 from the \$5.00 fee for certificate of ownership. The total number may increase under provisions of this Bill.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION: A required certificate of ownership would factually identify the number of snowmobiles owned by Montana residents. Montana's appropriation from the National Recreational Trails Act (NRTA) is, in part, based upon the number of off-highway vehicles (including snowmobiles). In the past the Department of Fish, Wildlife, and Parks has only been able to use the number of registered snowmobiles since this was the only number documentable. Assuming figures from the Department of Justice, an increase in the number of documented snowmobiles in Montana could increase the annual federal appropriation by \$70,000. (The current appropriation is \$129,000.)

 1-26-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 1-27-93
EDWARD J. "ED" GRADY, PRIMARY SPONSOR DT

Fiscal Note for HB0281, as introduced

HTS 281

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH & GAME

Call to Order: By CHAIRMAN FOSTER, on January 28, 1993, at 3:00 p.m.

ROLL CALL

Members Present:

Rep. Mike Foster, Chair (R)
Rep. Bob Ream, Minority Vice Chair (D)
Rep. Beverly Barnhart (D)
Rep. Bob Clark (R)
Rep. Fritz Daily (D)
Rep. Jim Elliott (D)
Rep. Duane Grimes (R)
Rep. Marian Hanson (R)
Rep. Dick Knox (R)
Rep. Bea McCarthy (D)
Rep. Brad Molnar (R)
Rep. Scott Orr (R)
Rep. Bill Ryan (D)
Rep. Emily Swanson (D)
Rep. Doug Wagner (R)

Members Excused: Rep. Chase Hibbard (R)

Members Absent: None.

Staff Present: Doug Sternberg, Legislative Council
Mary Riitano, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 281, SB 17
Executive Action: SB 17

HEARING ON HB 281

Opening Statement by Sponsor:

REP. ED GRADY, House District 470, Canyon Creek, stated HB 281 will make many general revisions in the current law. Snowmobiles bought after the effective date of HB 281 will need to be titled in a similar procedure as motor vehicles. It will not require registration or reregistration decals for snowmobiles restricted to use on private land. HB 281 increases the decal fee from \$2 to \$5 to provide additional funds for enforcing laws and the

trail program. HB 281 will specifically exempt racing snowmobiles from registration and titling. The fines for unregistered snowmobiles will be increased. Special registration options will become available for antique snowmobiles.

Proponents' Testimony:

Mr. Ken Hoovestall, Montana Snowmobile Association, distributed (EXHIBIT 1, EXHIBIT 2, AND EXHIBIT 3).

Mr. Jim Michlig, Montana Snowmobile Racing Association (MSRA), stated the MSRA has existed two years and is growing rapidly. There are many locations where races are held in Montana. MSRA is associated with the International Snowmobile Racing Association. There are approximately 350 race entrants, with 20% being from Canada and from out-of-state. Since snowmobiles have become more powerful, controlled race areas are necessary.

Mr. Bob Bushnell, Montana Snowmobile Association, stated there has been a problem with registration of snowmobiles. HB 281 will aid in getting the problems straightened out. An increase in the fee is needed for more enforcement.

Mr Jim Wiseman, MSRA, supports HB 281.

Mr. Pat Graham, Director of the Fish, Wildlife, and Parks Department distributed (EXHIBIT 4).

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. FRITZ DAILY asked Mr. Bob Lane, Attorney for Fish, Wildlife, and Parks, if two completely separate issues are combined in HB 281. Section 11, Article 5, of the Montana Constitution deals with bills and subject matter. It states, "Each bill except general appropriation bills and bills for the codification of the general revision of the laws shall contain only one subject."

Mr. Lane stated he was unsure of the two separate issues which the representative spoke of. REP. DAILY said that part of the bill deals with regulating snowmobiles and the other part is adopting alcohol concentration standards while driving under the influence of alcohol. Alcohol-related bills usually are presented to the Judiciary Committee. Mr. Doug Sternberg stated the bill falls under Section 11, constitutional exception for general revision. REP. DAILY asked whether as long as the language of "An act generally revising the laws" is included in the title, may different issues may be presented. Mr. Sternberg stated that as long as all sections in the bill are related, the legislature can generally revise a whole segment of code at one time. Mr. Hoovestall said the intent is to replace old language with new language.

REP. BOB REAM asked Mr. Hoovestal if he understood the registration for antique snowmobiles to be \$10 as a one-time fee and \$ 0.50 per year. Mr. Hoovestal said yes. The procedure is the same as for vintage cars. REP. REAM stated on page 11, line 7, the decal fee is \$5 and registration is \$ 0.50. He asked if this was an annual fee. Mr. Hoovestal said yes.

REP. DAILY stated amendment seven in (EXHIBIT 5) has authorized the Department to enforce DUI laws for snowmobiles. He asked Mr. Graham if the game wardens will possess breathalyzers to test people for driving under the influence. Mr. Graham referred the question to Mr. Bob Walker, Fish, Wildlife, and Parks Snowmobile program. Mr. Walker said the officers will use breathalyzers under field testing. This practice is standard in other states. REP. DAILY asked if other states have the same cooperative agreements with Bureau of Land Management and Forest Service. Mr. Walker said that to the best of his knowledge they do.

REP. REAM stated that on page 12, lines 4-11, the bill provides for the distribution of the money received-\$2.50 to the law enforcement program and \$2.50 to the trails program. He asked Mr. Graham what the needs of the Department were in the areas of law enforcement and trails upkeep. Mr. Graham said funds are small compared to the needs, and that there is a small budget for snowmobile law enforcement. HB 281 would help balance the Department's needs. Antiquated trail grooming equipment needs to be replaced. He felt the 50/50 split is still the most equitable.

REP. EMILY SWANSON asked Mr. Graham if snowmobile trails get a portion of funding from gas tax. Mr. Graham said yes. REP. SWANSON asked if the gas tax was inadequate and if the additional money from fees and registration would go toward trail grooming. Mr. Graham said yes. He stated that the Department does not actually do the work. The money is given to the local organization that handles the grooming. He referred the question to Mr. Hoovestal, who stated 5/10 of 1% of the fuel burned in Montana is used in snowmobiles for offroad usage. Cuts have been made in their program because usage of fuel has decreased. Additional costs have been incurred with replacing antiquated equipment. REP. ELLIOTT inquired how much money is received from gas tax funds. Mr. Hoovestal stated in FYE 1992 \$442,000 was received from fuel tax; \$33,410 was received from decal fees; and \$3,860 was received from fines. The funds were used as follows: \$228,568 - Grooming trails; \$186,000 - Department administration; \$71,549 - Department overhead; \$44,736 - Parks Division administration; \$10,000 - Parks printing; \$2,000 - equipment repair; \$41,700 - Education/maps/signs; and \$16,345 - Law enforcement. The balance remaining is placed in the revolving account.

REP. MARION HANSON asked Mr. Hoovestal how many miles of trails are involved. Mr. Hoovestal replied there are approximately 2,500 miles of groomed trails, plus many miles of other trails.

CHAIRMAN MIKE FOSTER asked REP. GRADY for information regarding a fiscal note. REP. GRADY stated that he hadn't seen a fiscal note, but he will obtain one. Mr. Hoovestad said a fiscal note has been prepared but was not distributed.

Closing by Sponsor:

REP. GRADY said a lot of changes have taken place in the snowmobile industry. Alcohol does not have a place in operating these machines. Registering snowmobiles will provide a paper trail in tracking down those snowmobilers that trespass on private land and those that break other laws. Race snowmobiles are similar to stock cars. They change hands so frequently it is impossible to keep them properly registered. REP. GRADY closed by saying that he will obtain copies of the fiscal note.

HEARING ON SB 17

Opening Statement by Sponsor:

SEN. JOHN KENNEDY, Senate District 3, Kalispell stated SB 17 will improve the existing law. The current law allows a disabled person to hunt and fish with a conservation license. An elk license can be purchased for half price by a disabled person. A blind person may obtain a lifetime fishing license for \$10. Non-ambulatory disabled people are allowed to hunt from their vehicle. Some confusion has resulted in the pursuit of the wounded animal. SB 17 allows a companion to pursue, hunt, take, shoot, and kill the wounded animal. SEN. KENNEDY also requested that this clause be extended to the nonresident hunter who has received a nonresident hunting license. Many organizations have expressed their support of this bill.

Proponents' Testimony:

Mr. Pat Graham, Director Fish, Wildlife, and Parks, distributed (EXHIBIT 6).

Ms. Jean Johnson, Executive Director, Montana Outfitters and Guides Association, stated that some outfitters take disabled people, who want a physical challenge, hunting. The Association is working with the Bureau of Land Management (BLM) to expand their current services. The license fee for a disabled out-of-state hunter is the same as a nondisabled person. They would appreciate the opportunity for disabled out-of-state hunters to hunt from their vehicles.

REP. DOUG WAGNER stated he is a proponent of SB 17.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. JIM ELLIOTT asked Mr. Graham why the hunter who pursues the animal does not have to be a licensed hunter. Mr. Graham said the Department and the Senate spent a lot of time discussing the

HOUSE OF REPRESENTATIVES

FISH & GAME

COMMITTEE

ROLL CALL

DATE

January 28, 1993

NAME	PRESENT	ABSENT	EXCUSED
VICE-CHAIRMAN CHASE HIBBARD			X
VICE-CHAIRMAN BOB REAM	X		
REP. BARNHART	✓		
REP. CLARK	X		
REP. DAILY	X		
REP. ELLIOT	X		
REP. GRIMES	X		
REP. HANSON	X		
REP. KNOX	X		
REP. MCCARTHY	X		
REP. MOLNAR	X		
REP. ORR	X		
REP. RYAN	X		
REP. SWANSON	✓		
REP. WAGNER	X		
CHAIRMAN MIKE FOSTER	✓		

Testimony presented by
Montana Snowmobile Association
before the
House Fish and Game Committee 1/28/93

Page 1, Line 16 Through Page 2, Line 11: Updates the language regarding the procedure for the reporting of stolen and recovered snowmobiles (see amendment).

Page 2, Line 15 : Adds word "private" which will require all snowmobiles purchased after the effective date of this act to be titled.

Reason 1: A required certificate of ownership would factually identify the number of snowmobiles owned by Montana residents. Montana's appropriation from the National Recreational Trails Act is, in part, based upon the number of off-highway vehicles (including snowmobiles). In the past we have only been able to use the number of registered snowmobiles since this is the only number we could document. If figures from the Montana Motor Vehicle Division are accurate, an increase in the number of documented snowmobiles in Montana could increase our annual federal appropriation.

Reason 2: Will establish a paper trail that will assist law enforcement agencies in identifying and recovering stolen snowmobiles.

Reason 3: Provides a means to identify the owner of a snowmobile that has trespassed or has been abandoned after damage to private property has occurred.

Page 3, Lines 14 through 18. Provides additional methods to prove ownership when a snowmobile is sold.

Reason 1: It has been difficult to prove ownership for snowmobiles where registration or titling has not been required. Presently, snowmobiles operated only on private lands, ranchers and farmers primarily, are not required to be titled or registered.

Page 9, Lines 19 through 21. Exempts non-resident racing snowmobiles, as defined in Section 13 of this Act, from having to purchase a temporary non-resident use permit.

Page 11, Line 8. Increases the decal fee from \$2.00 to \$5.00.

Page 12, Lines 8 and 9. The increase in decal fee is divided in the same manner as the existing law.

Reason 1: Provides additional funding for enforcement of the provisions of this act (fiscal report indicates approximately an additional \$22,500).

Reason 2: Provides additional funding for Montana's snowmobile trail system (fiscal report indicates approximately an additional \$22,500).

Page 14, Lines 5 through 12. Includes our trails system in the unlawful operation provisions of this Act.

Page 14, Lines 15 through 17. Provides updated and standardized alcohol concentration standards

Page 16, Lines 23 through 25. Extends the permitting process to events held on private or public lands and waters (frozen or unfrozen).

Page 17, Lines 2 through 4. Removes decibel limits for permitted competitive events.

Page 17, Lines 6 through 17. Extends accident reporting requirements for our trails system and increases the dollar amount for such requirements from \$100 to \$750. Also establishes accident reporting requirements where property damage, personal injury or fatality occurs.

Page 17, Lines 19 through 23. Removes enforcement limitations of Department officers.

Page 18, Lines 20 and 21. Extends enforcement authority to park rangers within state park boundaries.

Page 19, Lines 4 through 6. Increases the fine for non-registration when used on public lands from \$10 to \$50 to five times the fee in lieu of taxes (\$90 to \$110).

Page 20, Lines 2 through 11. Makes changes deemed necessary by court decisions affecting both ski area and snowmobile area operators.

Page 21, Line 5 through Page 22, Line 6. New Section 12 details the new commonly accepted alcohol concentration standards.

Page 22, Lines 7 through 13. New Section 13 exempts snowmobiles built or used exclusively for sanctioned, competitive events from titling or registration.

Page 22, Line 14 and 15. New Section 14. Effective date upon passage and approval is desirable so the enforcement and safety changes will apply to the balance of this season.

HB 281

Other than wording and language changes by the codifiers, the following are the key provisions of HB 281.

- * Requires all snowmobiles sold after the effective date of this bill to be titled. Will use the same procedures as for motor vehicles. This will not require registration or registration decals for snowmobiles used strictly on private land.
- * Provides easier methods to prove ownership for purposes of titling and registration.
- * Increases the registration decal fee from \$2.00 to \$5.00 to provide more money for enforcement of laws and for the trail program.
- * Exempts specific racing snowmobiles from registration and titling.
- * Increases the fine for non-registration of snowmobiles used on public land.
- * Provides a special registration option for antique snowmobiles.

EXHIBIT 3
DATE 1/28/93
HB 281

Amendments to House Bill No. 281
Introduced Reading Copy

Requested by Ken Hoovestall
For the Committee on Fish & Game

Prepared by Doug Sternberg, Council Staff
January 26, 1993

1. Page 1, line 16 through page 2 line 11.

Strike lines in their entirety

Insert: "The reporting of stolen and recovered snowmobiles must
be conducted in the same manner as the reporting of stolen
and recovered motor vehicles, as provided in 61-3-106."

Amendments to House Bill No. 281
Introduced Reading Copy

Requested by Ken Hoovestall
For the Committee on Fish & Game

Prepared by Doug Sternberg, Council Staff
January 26, 1993

1. Title, line 8.

Following: "REQUIREMENTS;"

Insert: "PROVIDING FOR REGISTRATION OF A SNOWMOBILE OWNED AND
OPERATED SOLELY AS A COLLECTOR'S ITEM;"

2. Page 10, line 10.

Strike: "A"

Insert: "Except for a snowmobile registered under [section 14],
a"

3. Page 22, line 14.

Following: line 13

Insert: "NEW SECTION. Section 14. Registration of a snowmobile
owned and operated solely as a collector's item. (1) An
owner of a snowmobile more than 25 years old, used solely as
a collector's item and not for general recreational
purposes, may file with the county treasurer an application
for the registration of the snowmobile. The application must
be sworn to before an officer authorized to administer
oaths. The application must state:
(a) the name and address of the owner;
(b) the name and address of the person from whom purchased;
(c) the make, the year and number of the model, and the
manufacturer's identification number and serial number of
the snowmobile; and
(d) that the snowmobile is owned and operated solely as a
collector's item and not for general recreational purposes.
(2) The registration fee for a snowmobile registered under
subsection (1) is \$10.
(3) Upon receipt of the application for registration and
payment of the registration fee, the county treasurer shall
file the application and register the snowmobile in the
manner specified in 23-2-616 and deliver to the applicant a
license plate or decal bearing the inscription "Vintage--
Montana" and the registration number.
(4) The year of issuance may not be shown on the plate or
decal.
(5) Annual renewal of the registration of a snowmobile
registered under this section is not required, and the
registration is valid as long as the snowmobile is in
existence. Upon sale of the snowmobile, the purchaser shall
renew the registration and pay the license fee provided in
subsection (2)."

Renumber: subsequent section

EXHIBIT 5
DATE 3/1/28/9
HB 281

HB 281
January 28, 1993

Testimony presented by Pat Graham, Dept. of Fish, Wildlife & Parks
before the House Fish and Game Committee

House Bill 281 generally revises laws relating to snowmobiles. The bill would:

- 1) require a certificate of ownership for snowmobiles used on private as well as public land;
- 2) adopt alcohol concentration standards applicable to driving a snowmobile while under the influence of alcohol;
- 3) exempt snowmobiles used only in racing events from certification and registration requirements;
- 4) amend accident reporting requirements;
- 5) increase the snowmobile registration decal fee;
- 6) increase the penalty fee for failing to display a snowmobile registration decal and
- 7) adds authorized officers of the Department of Fish, Wildlife and Parks to the list of those who can enforce snowmobile laws.

This bill creates a method for establishing a record of snowmobile ownership which will assist law enforcement in recovery of stolen snowmobiles and which may assist in the securing of additional federal funds for trail management and maintenance. It clarifies law enforcement responsibilities, provides additional funds for trail maintenance and enforcement of snowmobile laws on trails, in addition to public roads and highways.

It also increases the penalty for failure to display registration decals. Funds collected from such penalties are designated for use in the state snowmobile safety program. For these reasons, we support HB 281 as written.

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0281, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising the laws relating to snowmobiles, adopting alcohol concentration standards applicable to driving a snowmobile under the influence of alcohol, and exempting racing snowmobiles from certification and registration requirements effective immediately.

ASSUMPTIONS:

1. Based on information from the Department of Justice Motor Vehicle Division, the average number of registered snowmobiles in Montana is 15,000 and the total number of snowmobiles is approximately 50,000.
2. Department of Fish, Wildlife and Parks (FWP) wardens currently are trained to enforce alcohol concentration standards on boats. The fiscal impact to enforce these standards on snowmobiles will be negligible.
3. Operating and equipment costs in the FWP may increase but the estimated amount is undeterminable. This is based upon the assumption that more warden time is spent on enforcing these new provisions.
4. The bill requires that snowmobiles purchased after the effective date of this act and operated upon private lands must have a certificate of ownership. Of the \$5 certificate of ownership fee, \$3.50 is deposited in the state general fund and the remaining \$1.50 is retained by the county treasurer. This change may increase general fund and county revenues but the amount is not subject to reasonable estimate.

FISCAL IMPACT:Revenues:

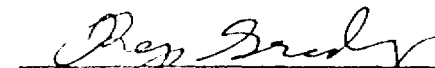
1. The minimum penalty for not displaying a registration decal will be increased from \$10 to \$75. Assuming that non-compliance remains at the current level and judges fine violators twice the previous amount, fine revenue will increase by \$3,300 a year (state special revenue).
2. The decal fee will increase from \$2 to \$5, increasing the FWP decal fee state special revenue from \$30,000 (assuming 15,000 registered snowmobiles) to \$75,000 per year. (state special revenue).

Net Impact: FWP state special revenue from snowmobile decal fees and fines will increase \$48,300 each year.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES: County treasurers receive \$1.50 from the \$5.00 fee for certificate of ownership. The total number may increase under provisions of this bill.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION: A required certificate of ownership would factually identify the number of snowmobiles owned by Montana residents. Montana's appropriation from the National Recreational Trails Act (NRTA) is, in part, based upon the number of off-highway vehicles (including snowmobiles). In the past the Department of Fish, Wildlife, and Parks has only been able to use the number of registered snowmobiles since this was the only number documentable. Assuming figures from the Department of Justice, an increase in the number of documented snowmobiles in Montana could increase the annual federal appropriation by \$70,000. (The current appropriation is \$129,000.)

 1-26-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 1-29-93
EDWARD J. "ED" GRADY, PRIMARY SPONSOR DATE

Fiscal Note for HB0281, as introduced

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

FISH B GAME

COMMITTEE

BILL NO.

HB281

DATE 1/28/93

SPONSOR(S)

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Bob Bushnell Helena	MT Snowmobile Assn	X	
Jim Wiseman Helena	MT Snowmobile Racing Assn	X	
Jim Michling Kalispell	MT. SNOWMOBILE RACE ASSC	X	
Linda Ellison	mt Trail Vehicle Riders ^{Assn}	X	
Ken Hoovestol	MT. Snowmobile Assn.	X	
Bob Walker	FW+P	X	
Mons Teigen	Self	X	
Matz [Signature]			
[Signature]			
Tee Foster			

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

supported HB 526 and thought that the program was successful. However, he felt an easement would be just as successful.

REP. ROBERT CLARK asked Mr. Childress if the Department is required to sell an equal amount of land, is it possible to attach a conservation easement to the land it plans to sell. Mr. Childress said that it is a possibility, but it would be difficult. REP. CLARK inquired if this would solve some of the problems regarding easements. Mr. Childress said yes.

Closing by Sponsor:

REP. HANSON stated that the Department is working with the landowners. She stated 20% of the money collected in this fund is supposed to go toward maintenance of the land. In eastern Montana there is a problem reconciling what the Department should be doing. She feels that in some areas the Department is paying too much for the land. Leases would be a money saving option. REP. HANSON felt this would improve the landowner/sportsman relationship. She urged passage of HB 214.

Announcement:

CHAIRMAN MIKE FOSTER asked if the committee would consider sponsoring a committee bill regarding hunting for the blind. He spoke with the Department, and they did not see any problems with the idea.

EXECUTIVE ACTION ON 281

Mr. Sternberg distributed the first proposed amendment (EXHIBIT 22). He stated that the intent and substance of each proposed amendment has not changed.

Motion: REP. CLARK MOVED HB 281 DO PASS.

Motion: REP. HANSON MOVED AMENDMENT ONE DO PASS.

Discussion:

Mr. Sternberg stated amendment one replaces section 1, which is the present method of reporting stolen snowmobiles.

Vote: AMENDMENT ONE DO PASS. Motion carried unanimously.

Mr. Sternberg distributed amendment two (EXHIBIT 23).

Motion: REP. REAM MOVED AMENDMENT TWO DO PASS.

Discussion:

Mr. Sternberg explained amendment two provides a change in the title and a change in section 4, which exempts antique snowmobile

registration. It also provides an antique snowmobile with the same registration procedures similar to vintage cars.

REP. BEA MCCARTHY asked Mr. Sternberg to explain what "not for general recreation purposes" meant for use of antique snowmobiles. Mr. Sternberg stated that motor vehicles registered as antiques can be driven under certain conditions, such as car shows.

REP. CLARK asked if there is a difference between a pioneer plate and vintage plate. Mr. Sternberg stated that there is a difference in registration of motor vehicles between a vintage and an antique based solely on age. A classic automobile has to be approximately 50 years old. The registration of a snowmobile collectors' item is limited to snowmobiles older than 25 years old. The antique snowmobile registration is similar to that of vintage automobiles.

REP. MCCARTHY stated she still felt confusion on what an antique snowmobile may be used for. Mr. Hoovestall said that the usage could be in conventions, shows, and parades to show them off.

Vote: AMENDMENT TWO DO PASS. Motion carried unanimously.

Mr. Sternberg distributed amendments three through eight.
(EXHIBIT 24).

Motion: REP. DAILY MOVED AMENDMENTS ONE, TWO, THREE, AND SIX DO PASS.

Discussion:

REP. DAILY said that Amendments One, Two, Three, and Six makes the following unable to arrest snowmobilers in the enforcement of drunk driving laws: any ex officio member of the US Forest Service; BLM; Fish, Wildlife, and Parks Department; Peace Officers of the Bureau of Land Management; and the Park Service.

Vote: AMENDMENT ONE, TWO, THREE, AND SIX DO PASS. Motion carried unanimously.

Discussion:

REP. WAGNER asked CHAIRMAN FOSTER for permission to allow Mr. Hoovestall to explain amendments four and five.

REP. DAILY said that he objected to allowing the public to testify on bills during executive session. CHAIRMAN FOSTER said that he found it to be a common practice to allow an audience member to provide further clarification on questions from committee members. REP. DAILY said that was alright. He felt it was not right for audience members to testify after committee action when they did not testify originally on the bill.

CHAIRMAN FOSTER thanked REP. DAILY for his comments and would keep them in consideration.

CHAIRMAN FOSTER asked if there were objections from the committee for Mr. Hoovestal to explain amendments four and five.

REP. WAGNER asked Mr. Hoovestal to explain the purpose of amendments four and five. Mr. Hoovestal said amendment four replaces ambiguous language found on page 14, line 14. Amendment five sets a more realistic fine.

REP. MCCARTHY stated that the \$1,000 is current law. CHAIRMAN FOSTER said that amendment five is a total change. REP. MCCARTHY declared that no testimony had been presented on it. CHAIRMAN FOSTER agreed.

Motion: REP. WAGNER MOVED AMENDMENT FOUR DO PASS.

Vote: AMENDMENT FOUR DO PASS. Motion carried 15 to 1 with REP. DAILY voting no.

Motion: REP. HANSON MOVED AMENDMENT FIVE DO PASS.

Discussion:

REP. HANSON stated if the judicial system has never used the \$1,000 fine, she felt a \$500 fee is more realistic for a misdemeanor fine.

REP. MCCARTHY felt that it was not appropriate to adopt the amendment which was not discussed with the public.

REP. REAM spoke against the amendment.

REP. MOLNAR asked if adopting an amendment without public discussion was legal. CHAIRMAN FOSTER said yes. Mr. Sternberg explained that it could be passed since it was in the context of a general revision bill.

Vote: AMENDMENT FIVE DO PASS. Motion failed unanimously.

Motion: REP. HANSON WITHDREW HER DO PASS MOTION ON AMENDMENT FIVE.

Motion: REP. DAILY MOVED HB 281 DO PASS AS AMENDED.

Vote: HB 281 DO PASS AS AMENDED. Motion passed unanimously.

Announcement:

CHAIRMAN FOSTER received a special request from Mr. Stephens, Co-Chair Landowners Sportsman Council to make a short statement on HB 214. This organization was formed last year for the purpose of improving landowner/sportsman relations. There may be a

potential through this council of eliminating a lot of the issues before they arise on the legislative level. These problems should be solved by the council or a similar type of organization. He will be proposing to the council the idea of having a summit meeting between the different landowners and sportsmen organizations. He felt this may help alleviate some of the problems. He thanked the committee for their time.

ADJOURNMENT

Adjournment: 6:20 p.m.

Mike Foster

REP. MIKE FOSTER, Chair

Mary Riitano

MARY RIITANO, Secretary

ML/MR

HOUSE OF REPRESENTATIVES

FISH & GAME

COMMITTEE

ROLL CALL

DATE

2/2/93

NAME	PRESENT	ABSENT	EXCUSED
VICE-CHAIRMAN CHASE HIBBARD	X		
VICE-CHAIRMAN BOB REAM	X		
REP. BARNHART	X		
REP. CLARK	X		
REP. DAILY	X		
REP. ELLIOT	X		
REP. GRIMES	X		
REP. HANSON	X		
REP. KNOX	X		
REP. MCCARTHY	X		
REP. MOLNAR	X		
REP. ORR	X		
REP. RYAN	X		
REP. SWANSON	X		
REP. WAGNER	X		
CHAIRMAN MIKE POSTER	X		

HOUSE STANDING COMMITTEE REPORT

February 3, 1993

Page 1 of 3

Mr. Speaker: We, the committee on Fish and Game report that House Bill 281 (first reading copy -- white) do pass as amended

Signed: Mike Foster
Mike Foster, Chair

And, that such amendments read:

1. Title, line 7.

Following: "ALCOHOL;"

Insert: "PROVIDING ENFORCEMENT EXCEPTIONS FOR CERTAIN EX OFFICIO
WARDENS;"

2. Title, line 8.

Following: "REQUIREMENTS;"

Insert: "PROVIDING FOR REGISTRATION OF A SNOWMOBILE OWNED AND
OPERATED SOLELY AS A COLLECTOR'S ITEM;"

3. Title, line 10.

Strike: "AND"

4. Title, line 11.

Following: "23-2-654,"

Insert: "AND 87-1-503,"

5. Page 1, line 16 through page 2 line 11.

Strike lines in their entirety

Insert: "The reporting of stolen and recovered snowmobiles must
be conducted in the same manner as the reporting of stolen
and recovered motor vehicles provided for in 61-3-106."

6. Page 10, line 10.

Strike: "A"

Insert: "Except for a snowmobile registered under [section 14],
a"

7. Page 14, line 14.

Following: "vehicles"

Insert: ", unless travel on the street, highway, or trail has
been closed to motor vehicle traffic or unless drifting snow
or snow cover has rendered travel by motor vehicles
impractical or impossible"

8. Page 22, line 14.

Following: line 13

Insert: "NEW SECTION. Section 14. Registration of a snowmobile owned and operated solely as a collector's item. (1) An owner of a snowmobile that is more than 25 years old and that is used solely as a collector's item and not for general recreational purposes may file with the county treasurer an application for the registration of the snowmobile. The application must be sworn to before an officer authorized to administer oaths. The application must state:

- (a) the name and address of the owner;
 - (b) the name and address of the person from whom the snowmobile was purchased;
 - (c) the make, the year and number of the model, and the manufacturer's identification number and serial number of the snowmobile; and
 - (d) that the snowmobile is owned and operated solely as a collector's item and not for general recreational purposes.
- (2) The registration fee for a snowmobile registered under subsection (1) is \$10.
- (3) Upon receipt of the application for registration and payment of the registration fee, the county treasurer shall file the application, register the snowmobile in the manner specified in 23-2-616, and deliver to the applicant a license plate or decal bearing the inscription "Vintage--Montana" and the registration number.
- (4) The year of issuance may not be shown on the plate or decal.
- (5) Annual renewal of the registration of a snowmobile registered under this section is not required, and the registration is valid as long as the snowmobile is in existence. Upon sale of the snowmobile, the purchaser shall renew the registration and pay the license fee required in subsection (2).

Section 15. Section 87-1-503, MCA, is amended to read:

"87-1-503. Ex officio wardens. All (1) Except as provided in subsection (2), all sheriffs and their deputies, constables, all peace officers of the state or any subdivision thereof, and all state forest officers, other officers of the United States forest service or agents of the United States fish and wildlife service that are assigned to duty in this state, and field personnel of the department, as the director may appoint, are hereby made ex officio wardens, without pay, except that the department may, in its discretion, allow traveling expenses as provided for in 2-18-501 through 2-18-503, which, if allowed, must be paid upon proper vouchers from the state fish and game funds. Ex officio wardens shall have the same powers with

EXHIBIT 25
DATE 2/2/93
HB 281

Amendments to House Bill No. 281
Introduced Reading Copy

Requested by Ken Hoovestol
For the Committee on Fish & Game

Prepared by Doug Sternberg, Council Staff
February 2, 1993

1. Page 1, line 16 through page 2 line 11.

Strike lines in their entirety

Insert: "The reporting of stolen and recovered snowmobiles must
be conducted in the same manner as the reporting of stolen
and recovered motor vehicles provided for in 61-3-106."

February 3, 1993

Page 3 of 3

reference to the enforcement of the fish and game laws of this state and the laws relating to parks and outdoor recreation contained in chapters 1 and 2 of Title 23, except chapter 2, part 7, as regularly appointed wardens, and it is hereby made their duty to assist, whenever possible, in the enforcement of those laws.

(2) Officers of the United States forest service, agents of the United States fish and wildlife service, and peace officers of the bureau of land management, national park service, and corps of engineers are not authorized to enforce the provisions of [section 12]."

Renumber: subsequent section

-END-

GL 2/3/93

Amendments to House Bill No. 281
Introduced Reading Copy

Requested by Ken Hoovestol
For the Committee on Fish & Game

Prepared by Doug Sternberg, Council Staff
February 2, 1993

1. Title, line 8.

Following: "REQUIREMENTS;"

Insert: "PROVIDING FOR REGISTRATION OF A SNOWMOBILE OWNED AND
OPERATED SOLELY AS A COLLECTOR'S ITEM;"

2. Page 10, line 10.

Strike: "A"

Insert: "Except for a snowmobile registered under [section 14],
a"

3. Page 22, line 14.

Following: line 13

Insert: "NEW SECTION. Section 14. Registration of a snowmobile
owned and operated solely as a collector's item. (1) An
owner of a snowmobile that is more than 25 years old and
that is used solely as a collector's item and not for
general recreational purposes may file with the county
treasurer an application for the registration of the
snowmobile. The application must be sworn to before an
officer authorized to administer oaths. The application must
state:

(a) the name and address of the owner;

(b) the name and address of the person from whom the
snowmobile was purchased;

(c) the make, the year and number of the model, and the
manufacturer's identification number and serial number of
the snowmobile; and

(d) that the snowmobile is owned and operated solely as a
collector's item and not for general recreational purposes.

(2) The registration fee for a snowmobile registered under
subsection (1) is \$10.

(3) Upon receipt of the application for registration and
payment of the registration fee, the county treasurer shall
file the application, register the snowmobile in the
manner specified in 23-2-616, and deliver to the applicant a
license plate or decal bearing the inscription "Vintage--
Montana" and the registration number.

(4) The year of issuance may not be shown on the plate or
decal.

(5) Annual renewal of the registration of a snowmobile
registered under this section is not required, and the
registration is valid as long as the snowmobile is in
existence. Upon sale of the snowmobile, the purchaser shall
renew the registration and pay the license fee required in
subsection (2)."

Renumber: subsequent section

Amendments to House Bill No. 281
First Reading Copy

Requested by Ken Hoovestol
For the Committee on Fish & Game

Prepared by Doug Sternberg
February 2, 1993

1. Title, line 7.

Following: "ALCOHOL;"

Insert: "PROVIDING ENFORCEMENT EXCEPTIONS FOR CERTAIN EX OFFICIO
WARDENS;"

2. Title, line 10.

Strike: "AND"

3. Title, line 11.

Following: "23-2-654,"

Insert: "AND 87-1-503,"

4. Page 14, line 14.

Following: "vehicles"

Insert: ", unless travel on the street, highway, or trail has
been closed to motor vehicle traffic or unless drifting snow
or snow cover has rendered travel by motor vehicles
impractical or impossible"

5. Page 19, line 14.

Strike: "\$1,000"

Insert: "\$500"

6. Page 22, following line 13.

Insert: "Section 14. Section 87-1-503, MCA, is amended to read:

"87-1-503. Ex officio wardens. All (1) Except as provided in subsection (2), all sheriffs and their deputies, constables, all peace officers of the state or any subdivision thereof, and all state forest officers, other officers of the United States forest service or agents of the United States fish and wildlife service that are assigned to duty in this state, and field personnel of the department, as the director may appoint, are hereby made ex officio wardens, without pay, except that the department may, in its discretion, allow traveling expenses as provided for in 2-18-501 through 2-18-503, which, if allowed, must be paid upon proper vouchers from the state fish and game funds. Ex officio wardens shall have the same powers with reference to the enforcement of the fish and game laws of this state and the laws relating to parks and outdoor recreation contained in chapters 1 and 2 of Title 23, except chapter 2, part 7, as regularly appointed wardens, and it is hereby made their duty to assist, whenever possible, in the enforcement of those laws.

(2) Officers of the United State forest service, agents of the United States fish and wildlife service, and peace officers of the bureau of land management, national park service, and

corps of engineers are not authorized to enforce the provisions
of [section 12]."

Renumber: subsequent section

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

SEN. STANG asked if "\$200" was the amount of the tax or the amount of the transaction. William Salisbury replied the \$200 represented the tax liability.

SEN. STANG verified there was currently no limit on these transactions, and that meant a \$20 check could be turned in and DOT would have to provide a refund. William Salisbury replied affirmatively and added the lowest check DOT had received was for \$3.59.

Closing by Sponsor:

SEN. WEEDING closed.

HEARING ON HOUSE BILL 281

Opening Statement by Sponsor:

Rep. Grady, House District 47, read from written testimony which presented the main provisions of HB 281 (Exhibit #4).

Proponents' Testimony:

Ken Hoovestall, Montana Snowmobile Association, distributed copies of testimony which detailed all the provisions in HB 281 (Exhibit #5). He stated HB 281 arose due to a concern that the MCA section addressing snowmobilers had not been reviewed since the 1970s even though the sport has substantially changed during those years. He stated the Montana Snowmobile Association Board of Directors, the Snowmobile Advisory Committee from DOT, the Montana Snowmobile Association, the Department of Fish Wildlife & Parks and the Department of Justice decided it was time to review the entire act and make the necessary changes. He prefaced his explanation of HB 281 by clarifying the difference between a snowmobile certificate of ownership and snowmobile registration. According to Mr. Hoovestall a snowmobile certificate of ownership is equivalent to the title of a car; a snowmobile registration or decal fee is the same as the license plate of a car. He then reviewed and explained the information in his written testimony (Exhibit #5).

Dennis Ogle, President, Montana Snowmobile Association read from written testimony (Exhibit #6).

Arnold Olsen, Administer, State Parks Division, Department of Fish, Wildlife & Parks, read from written testimony (Exhibit #7).

Opponents' Testimony:

Russell Hill, Montana Trial Lawyers Association (MTLA), stated MTLA's opposition to HB 281 was fragile and limited and involved HB 281's liability provision. He prefaced his comments by saying MTLA did not oppose HB 281 when it was heard in the House, since the language in HB 281 there seemed fairly non-substantive. Russell Hill stated a MTLA member alerted him to the fact that HB 281 would make a substantive change in liability. As Mr. Hill explained, a snowmobiler assumes the entire risk while snowmobiling under current law, but the new language in HB 281 would change a snowmobiler's liability from a strict liability to a comparative negligence. He illustrated this change with an example of a snowmobiler who is going too fast in poor visibility and hits a skier. Since poor visibility is a risk inherent to snowmobiling, Mr. Hill stated under current law that snowmobiler would be liable to the skier on the trail even if the skier were at some fault for not getting out of the way. He stated HB 281 would make it necessary to apportion the fault and the skier's negligence would then become a factor deducting from the snowmobiler's liability. According to Mr. Hill, however, the situation could arise in which a snowmobiler who had either been drinking or was under the influence of drugs and hits a tree while swerving to miss a skier could recover damages from the skier for not getting out of the way because DUI is not classified as an inherent risk of snowmobiling.

Informational Testimony: None.

Questions From Committee Members and Responses:

SEN. TVEIT asked why HB 281 would strike the word "death" from the current statute. Ken Hooverstal replied "death" might be included in the definition of "serious injury" and thus might be redundant. He said Pat Melby was the person who could answer the specific legalities of the HB 281, and offered to ask Pat Melby about the reason for striking the word "death". He stated he did not agree with the MTLA's "conjectures" as to potential liability problems HB 281's language might present in the future.

CHAIRMAN WEEDING asked Mr. Hooverstal to supply the Committee with a legal opinion on the removal of the word "death" from the statute.

SEN. KOEHNKE asked why the provision giving federal officers the authority to enforce DUI laws on snowmobilers was removed from HB 281. Ken Hooverstal replied the House Committee had removed that portion from HB 281, because some representatives expressed the concern that a federal agent or forest service ranger who did not approve of the sport could use the extension of DUI and alcohol testing standards onto the trail system to harass snowmobilers. According to Mr. Hooverstal, the argument was made that game wardens and forest service personnel cannot stay certified to administer DUI tests and could use minor alcohol consumption as a pretence to haul a snowmobiler down the mountain to a sheriff's office. He stated the House committee had decided the current

departmental ordinance had functioned for a long time and that this was a minor issue since there has only been four DUIs in eight years.

SEN. TOEWS asked for an explanation of the logic behind HB 281's provisions for reporting accidents. Ken Hooverstal explained his organization tries to keep records of snowmobile safety. He said HB 281 is designed for instances when at least two machines are involved in an accident. He stated the logic behind the provision is to extend the accident reporting which takes place on roads and highways onto snowmobile trails; HB 281 would help the sport prove its relative safety.

SEN. TOEWS asked if Mr. Hooverstal thought the increase in fees was still appropriate even if the money were "de-earmarked". Ken Hooverstal responded yes.

SEN. MCCLERNAN asked if a legal definition of "snowmobile" existed and if it included big mobile passenger track-vehicles. Ken Hooverstal replied it did not. He stated a snowmobile was statutorily defined as a vehicle that was "48 inches wide, steered with skis, and powered by track". He said the original intent was to clearly define the snowmobile from any of the bigger snow-machines, any wheeled vehicles, or any other entity.

SEN. REA asked if other states like Idaho require out-of-state permits. Ken Hooverstal responded HB 281 specifically deals with unregistered non-resident snowmobiles. He said Montana currently has reciprocity with Idaho so if snowmobiles are registered in Idaho they can be ridden in Montana and vice versa. He stated the issue here are snowmobiles from states that do not register snowmobiles. He noted that a permitting process would make it possible to legally ride them in Montana. He added the exceptions in HB 281 are restricted to racing vehicles that come to Montana to participate in an organized event.

CHAIRMAN WEEDING voiced concern about potential problems with HB 281's definition of public and private land. He stated in his district almost everyone could claim they rode solely on private land and be exempted. He asked Ken Hooverstal to respond. Ken Hooverstal responded the stipulation that registration is not required for snowmobiles ridden on private land is part of the current law. He explained the reference to "private land" had originally been included in the law because the Legislature's agricultural contingency had argued the snowmobiles they used for winter feeding should be placed in the same category as their tractors. Mr. Hooverstal said the inclusion of "private land" had been "passed by the legislature not over our objections, but not by our request"; HB 281's original draft would have required snowmobile registration on both private and public lands. He stated the current version of HB 281 represents an attempt to extend some of the legal restrictions currently in place on roads to the established snowmobile trail system. He said those trail

systems may or may not cross private land, but assured the Committee that no part of a trail system is established without an easement from the proper authorities.

CHAIRMAN WEEDING asked **Ken Hooverstal** to clarify the reference to private land on page 3. **Ken Hooverstal** stated under current law a snowmobile ridden only on private lands must be neither titled nor registered. He explained HB 281 would make it mandatory for everyone to have a title for their snowmobile but not to register their vehicles annually. **CHAIRMAN WEEDING** responded he often saw snowmobilers riding on private land to chase predators and recreate. He stated those snowmobilers would fall under the exemption even though their use is recreational and they are not riding on land they own. **Ken Hooverstal** replied if snowmobilers are riding on private land without permission they are trespassing.

SEN. STANG stated he might have a problem with the immediate effective date in HB 281. He explained he had received complaints about snowmobile and motorcycle registration and titling from people who would buy these vehicles and have no warning the law is about to change. He stated some people may buy a snowmobile with cash from someone who is moving and not realize they need a title in order to register and ride their snowmobiles. **Ken Hooverstal** replied he could see the possibility of **SEN. STANG's** scenario. He said HB 281 assumes that if an individual purchased a snowmobile, they would be certain to get a bill of sale.

SEN. STANG stated the public should be informed of any change in the law before it happens. He expressed his preference for an October 1, 1993 effective date so people would have plenty of time to adjust and do the necessary paperwork. **Ken Hooverstal** replied his organization intended to immediately put that information in its newspaper and send it to all club members. He said he realized not all snowmobilers were club members, but the various snowmobiling clubs intended to inform as many people as possible.

SEN. STANG asked **Russell Hill** to restate his objections to section 11 in "simpler terms". **Russell Hill** replied he would try. He stated the current statute reads "a snowmobiler assumes the risk and all legal responsibility for death or injury to himself or other persons or property that results from risks inherent in the sport of snowmobiling". He explained currently when a snowmobile accident causes injury or property damage, the snowmobiler pays. Referring to the scenario he had sketched out in his opposing statements, he added it did not matter if the skier could have perhaps gotten out of the way. **Mr. Hill** stated that under the language in HB 281, a snowmobiler would be liable only to the extent that the injury or damage results from risks inherent in the sport.

Mr. Hill admitted he was not sure MTLA found comparative negligence problematic. He emphasized, however, that HB 281 would change the current statute. According to Mr. Hill, Pat Melby had agreed the language in HB 281 would introduce some element of comparative negligence into the MCA sections applicable to snowmobiling. Mr. Hill reiterated the comparative negligence might not in itself be bad, but added the Committee should be aware of the potential consequences, especially in the case of HB 281 which is trying to "crack down on drinking".

SEN. STANG asked how this section would differ from the skiers liability section. Russell Hill replied he was not familiar enough with the two sections to venture a comparison. He noted, however, that Pat Melby had patterned HB 281 on the skier liability sections.

CHAIRMAN WEEDING asked if landowners would be partially liable if they allowed snowmobilers to ride on their land and somebody got hurt. Russell Hill said he was not sure but thought landowners would fit the definition of a "snowmobile area operator" and as such would be protected by the gross negligence standard. He stated HB 281 would not have any direct effect concerning this issue, but would make achieving "snowmobile area operator" status more important.

CHAIRMAN WEEDING said he was unsure if Russell Hill had understood the question. He stated he was referring to instances when somebody calls to ask for permission to hunt predators and 15-20 snowmobiles arrive, rip and tear in every direction, tip over and run into things. He asked if the landowner would be responsible if one of those snowmobilers were injured. Russell Hill said he did not believe so. He stated MCA 23-2-652, which would not be affected by HB 281, defines the term "snowmobile area operator". According to Mr. Hill landowners are included in that definition. He emphasized the change in liability is relevant only when third parties like skiers are involved.

CHAIRMAN WEEDING asked Ken Hooverstal to comment on this issue. Ken Hooverstal stated the snowmobile organizations did not request HB 281 in an attempt to go beyond the scope of their sport. He stated HB 281 was an effort to diminish the responsibilities of landowners when their land is a part of the trail system. According to Mr. Hooverstal, HB 281 would categorize the trail system, Fish Wildlife & Parks, and all landowners as "snowmobile area operators" and thus would "relieve them of a lot of the liability and put the responsibility back on the snowmobilers' shoulders". He stated when a snowmobiler rides onto private property which was not involved in the trail systems without permission they would be trespassing and, even if they were injured, the landowner would not be liable for any injury which took place under those circumstances.

CHAIRMAN WEEDING asked if landowners would be liable if they had given permission to ride on their land. Ken Hooverstal replied

the landowner would then be exempt from liability. Dennis Ogle stated the Recreational Usage Act stipulates that private landowners are exempt from liability unless they charge a fee. He said if landowners charge a fee the question about liability could arise, but reiterated the private landowner would not be liable if no fee was charged.

Closing by Sponsor:

Rep. Grady apologized for not being prepared to answer the questions Russell Hill had raised. He stated was informed of the problem only two hours before the hearing and had not had a chance to discuss the issue with Pat Melby. He assured the Committee that Ken Hoovestall would work with the committee members to clarify this matter. He said he believed HB 281 was designed to enable snowmobilers to discipline themselves and take more responsibility for their actions. He stated he could not understand the reasoning behind MTLA's concerns.

Rep. Grady voiced his support for snowmobile registration. He stated registration would make it possible to identify the owners of snowmobile being ridden on private land without permission. In speaking to a point brought up by CHAIRMAN WEEDING, Rep. Grady stated snowmobilers may use private and county roads which are closed to traffic due to winter snow.

Rep. Grady stated there have been substantial changes in the sport and available machinery since the statutes regarding snowmobiles had been updated. According to Rep. Grady snowmobiles can now reach 100 mph and although their average weight is 500 lbs., they can weigh as much as 1000 lbs. He stated snowmobilers should discipline themselves. He expressed his support for the portions of HB 281 dealing with alcohol consumption and remarked he had no problem with the House amendment divesting forest service personnel and game wardens of the authority to enforce DUI standards on the trails. He stated other legislation had been passed which would give these people more authority to help enforce the law. Rep. Grady also spoke to the possible change in the effective date SEN. STANG had proposed. Although he had not yet conferred with Ken Hoovestall, Rep. Grady said he did not see "any real problem" in delaying the effective date until October 1, 1993. He stated his main concern was that the new laws be in place prior to the start of next year's snowmobile season. He said the date SEN. STANG had proposed would provide plenty of time to inform the public of the changes.

Rep. Grady concluded by saying the economic impact of snowmobiling in Montana amounted to \$15 million in 1988. He stated snowmobiling is becoming a big industry in Montana and it is time the laws pertaining to snowmobiles were updated to reflect more accurately the current standards and situations of the sport.

ROLL CALL

SENATE COMMITTEE Highways & Transportation DATE March 2, 1971

[illegible]

SENATE HIGHWAYS

EXHIBIT NO. 4

HB 281

DATE MARCH 2, 1993

BILL NO. HB 281

Other than wording and language changes by the codifiers, the following are the key provisions of HB 281.

- * Requires all snowmobiles sold after the effective date of this bill to be titled. Will use the same procedures as for motor vehicles. This will not require registration or registration decals for snowmobiles used strictly on private land.
- * Provides easier methods to prove ownership for purposes of titling and registration.
- * Increases the registration decal fee from \$2.00 to \$5.00 to provide more money for enforcement of laws and for the trail program.
- * Exempts specific racing snowmobiles from registration and titling.
- * Increases the fine for non-registration of snowmobiles used on public land.
- * Provides a special registration option for antique snowmobiles.

HB 281

Testimony presented by
Montana Snowmobile Association
before the
Senate Highways and Transportation Committee 3/2/93

Page 1, Line 19 Through Page 2, Line 17: Updates the language regarding the procedure for the reporting of stolen and recovered snowmobiles as requested by the Department of Justice.

Page 2, Line 21 and Line 25 and Page 3, Lines 1 through 3: Requires a certificate of ownership (title) on all snowmobiles purchased after the effective date of this act. This does not require annual registration (decal or license) on snowmobiles used only on private lands.

Reason 1: A required certificate of ownership would factually identify the number of snowmobiles owned by Montana residents. Montana's appropriation from the National Recreational Trails Act is, in part, based upon the number of off-highway vehicles (including snowmobiles). In the past we have only been able to use the number of registered snowmobiles since this is the only number we could document. If figures from the Montana Motor Vehicle Division are accurate, an increase in the number of documented snowmobiles in Montana could increase our annual federal appropriation.

Reason 2: Will establish a paper trail that will assist law enforcement agencies in identifying and recovering stolen snowmobiles.

Reason 3: Provides a means to identify the owner of a snowmobile that has trespassed or has been abandoned after damage to private property has occurred.

Page 3, Lines 20 through 24. Provides additional methods to prove ownership when a snowmobile is sold.

Reason 1: It has been difficult to prove ownership for snowmobiles where registration or titling has not been required. Presently, snowmobiles operated only on private lands, ranchers and farmers primarily, are not required to be titled or registered.

Page 9, Lines 25 and Page 10, Lines 1 and 2. Exempts non-resident racing snowmobiles from the use permit. (Refers to definition on page 22, New Section 13.)

Page 11, Line 15. Changes the decal fee from \$2.00 to \$5.00 to increase funding for enforcement and the trails program.

Page 12, Lines 15 and 16. The increase in decal fee is divided in the same manner as the existing law.

Reason 1: Provides additional funding for enforcement of the provisions of this act (fiscal report indicates approximately an additional \$22,500).

Reason 2: Provides additional funding for Montana's snowmobile trail system (fiscal report indicates approximately an additional \$22,500).

Page 14, Lines 12 through 19. Includes our trails system in the unlawful operation provisions of this Act.

Page 14, Lines 20 through 24. Clarifies that speed limits posted for motor vehicles do not apply to snowmobiles when the road or trail is closed or impassable to wheeled vehicles.

Page 14, Line 25 and Page 15, Lines 1 through 3. Provides updated and standardized alcohol concentration standards (refers to Pages 21 and 22, New Section 12).

Page 17, Lines 8 through 10. Extends the permitting process to events held on water (frozen or unfrozen).

Page 17, Lines 12 through 14. Removes sound levels for permitted competitive events.

Page 17 and 18, Section 8. Extends accident reporting requirements for our trails system and increases the dollar amount for reporting from \$100 to \$750. Also establishes accident reporting requirements where property damage, personal injury or fatality occurs.

Page 18, Lines 4 through 8. Removes enforcement limitations of Department officers. *Expanding enforcement capabilities*

Page 19, Lines 5 and 6. Extends enforcement authority to state park rangers within state parks.

Page 19, Lines 14 through 16. Increases the fine for operating on public lands without current registration to five times the fee in lieu of tax (consistent with current boating law). The current fee in lieu of tax, paid upon registration, is 15 dollars for snowmobiles four years or older and 22 dollars if less than four years old.

Page 20, Lines 11 through 21. Updates the language defining the snowmobilers assumption of responsibility.

Page 21, New Section 12. Updates the language defining alcohol standards and testing procedures (this same language has been in the boating laws for the past eight years).

Page 22, New Section 13. exempts snowmobiles built or used exclusively for sanctioned, competitive events from titling or registration.

Page 22, 23 and 24, New Section 14. Provides a special registration option for snowmobiles over twenty-five years old when used as a collector's item, and limits their usage (similar to antique automobiles).

Page 25, Lines 3 through 7. Exempts officers or agents of federal land management agencies from enforcement authority on our trails of alcohol content and testing (DUI) as defined on pages 21 and 22, New Section 12. This amendment was added in the House committee by Representatives concerned with excessive enforcement.

Page 25, Line 8 and 9. New Section 16. An effective date upon passage and approval is desirable so the enforcement and safety changes will apply to the balance of this season and competitive events held this summer.

EXHIBIT 5
DATE 3/2/93
HB 281

March 2, 1993

SENATE HIGHWAYS

EXHIBIT NO. 6

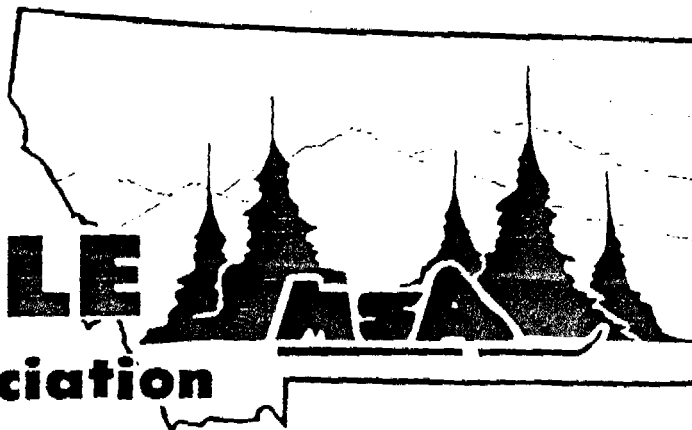
DATE MARCH 2, 1993

BILL NO. HB 281

Montana

SNOWMOBILE

Association



My name is Dennis Ogle, I am president of the Montana Snowmobile Association. I appreciate the opportunity to testify here this afternoon.

This year marks the 20th anniversary of the Montana Snowmobile Association. There have been few changes to the snowmobile law during this time. However, there have been considerable changes in snowmobiles and land use privileges the past 20 years.

The proposed changes to the snowmobile law will keep continuity with other, newer outdoor recreation sports as well as keep the snowmobile program in context with today's requirements.

HB 281

March 2, 1993

Testimony presented by Arnold Olsen, Dept. of Fish, Wildlife & Parks before the Senate Highways and Transportation Committee

The department works closely with the Montana Snowmobile Association to provide winter recreation opportunities. The provisions of HB 281 will help us provide better services to the public, improve snowmobiling in Montana and posture our state to receive additional federal trail funds. The increased fees will help provide additional law enforcement and improved trails. Therefore we support this bill.

The House amended the bill to exclude officers of federal land management agencies from enforcement of DUI standards. Ninety percent of our funded snowmobile trails in Montana are on federal lands. Although federal agents spend very little time enforcing state snowmobile laws, state and local officers also have limited time to enforce these laws.

DATE March 2, 1993

SENATE COMMITTEE ON Highways & Transportation

BILLS BEING HEARD TODAY: SB 417, HB 256, HB 281, HB 294

Name

Representing

Bill
No.

Check One
Support Oppose

Dan Roberts	Dept of Justice MVD	256	X	
Ben Hadden	MT Motor Carriers	294		X Amend
Dick Bumbarger	Disabled Am Veterans	256	X	
TONY CUMMINS	AMERICAN LEGION	256	X	
George Poston	United Veterans Co.	256	X	
HAL MANSON	AMERICAN LEGION	256	X	
DAVE GALT	MDT	294	X	
Bonnie Alexander	MT. Petroleum Marketers	SB 417	X	as amended
James A. Walther	MDT	HB 294	X	
Russell Hill	Mont. Railways	HB 281		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

Questions From Committee Members and Responses:

SEN. BRUSKI-MAUS asked Mr. Jacobsen if surviving spouses would be able to purchase a license plate if they re-married and their current spouse was a non-veteran. Jim Jacobsen responded he did not believe they could.

SEN. TVEIT asked SEN. BRUSKI-MAUS if that needed to be clarified. SEN. BRUSKI-MAUS replied HB 404 did not make that specification, but added the same rules relating to other military benefits might also apply. According to SEN. BRUSKI-MAUS, when surviving spouses of veterans re-marry they lose their military benefits except for retirement.

Closing by Sponsor:

Rep. Debruycker closed.

EXECUTIVE ACTION ON HOUSE BILL 404Motion/Vote:

SEN. SWYSGOOD moved HB 404 BE CONCURRED IN. The MOTION CARRIED UNANIMOUSLY.

SEN. BRUSKI-MAUS will carry HB 404 on the Senate floor.

EXECUTIVE ACTION ON HOUSE BILL 281Motion:

SEN. SWYSGOOD moved THE SET OF AMENDMENTS he had Tom Gomez prepare for HB 281 (Exhibit #2).

Discussion:

SEN. SWYSGOOD stated these amendments address the concerns expressed by "some committee members who wanted to be able to drive drunk and wreck" their snowmobiles. He stated that with the amendments to HB 281 "they are now allowed to both". After CHAIRMAN WEEDING asked for clarification, SEN. SWYSGOOD explained the amendment would strike from HB 281 the accident reporting on \$750 worth of damage, the alcohol portion, and the DUI enforcement authority of forest service officers and game wardens.

Vote: The AMENDMENT CARRIES UNANIMOUSLY.

Motion/Vote:

SEN. SWYSGOOD moved HB 281 BE CONCURRED IN AS AMENDED. The MOTION PASSED UNANIMOUSLY.

SEN. SWYSGOOD will carry HB 281 on the Senate floor.

ROLL CALL

SENATE COMMITTEE HIGHWAYS & TRANSPORT. DATE March 9, 1993

[illegible]

FC8

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 9, 1993

MR. PRESIDENT:

We, your committee on Highways and Transportation having had under consideration House Bill No. 281 (first reading copy -- blue), respectfully report that House Bill No. 281 be amended as follows and as so amended be concurred in.

Signed: Cecil Weeding
Senator Cecil Weeding, Chair

That such amendments read:

1. Title, lines 5 through 8.
Following: "SNOWMOBILES;" on line 5
Strike: remainder of line 5 through "WARDENS;" on line 8
2. Title, line 13.
Following: "AND"
Insert: "AND"
Following: "23-2-654,"
Strike: "AND 87-1-503,"
3. Page 10, line 2.
Strike: "13"
Insert: "12"
4. Page 10, line 17.
Following: "SECTION"
Strike: "14"
Insert: "13"
5. Page 14, line 25 through page 15, line 3.
Strike: subsection (b) in its entirety
Renumber: subsequent subsections
6. Page 17, line 20.
Following: line 19
Strike: line 20 through "\$750"
7. Page 17, lines 23 through 25.
Following: "~~vehicles.~~" on line 23
Strike: remainder of line 23 through "occurrence." on line 25
8. Page 21, line 15 through page 22, line 16.
Strike: section 12 in its entirety
Renumber: subsequent sections
9. Page 24, line 8 through page 25, line 7.
Strike: section 15 in its entirety
Renumber: subsequent section

-END-

Mr Amd. Coord.
Mr Sec. of Senate

Swysgood
Senator Carrying Bill

531620SC.Sma

Amendments to House Bill No. 281
Third Reading Copy

SENATE HIGHWAYS

EXHIBIT NO. 2

DATE 3/9/93

BILL NO. HB 281

Requested by Senator Swysgood
For the Senate Highways and Transportation Committee

Prepared by Tom Gomez
March 5, 1993

1. Title, lines 5 through 8.
Following: "SNOWMOBILES;" on line 5
Strike: remainder of line 5 through "WARDENS;" on line 8
2. Title, line 13.
Following: "AND"
Insert: "AND"
Following: "23-2-654,"
Strike: "AND 87-1-503,"
3. Page 10, line 2.
Strike: "(13)"
Insert: "(12)"
4. Page 10, line 17.
Following: "SECTION"
Strike: "14"
Insert: "13"
5. Page 14, line 25 through page 15, line 3.
Strike: subsection (b) in its entirety
Re-number: subsequent subsections
6. Page 17, line 20.
Following: line 19
Strike: line 20 through "\$750"
7. Page 17, lines 23 through 25.
Following: "~~vehicles.~~" on line 23
Strike: remainder of line 23 through "occurrence." on line 25
8. Page 21, line 15 through page 22, line 16.
Strike: section 12 in its entirety
Re-number: subsequent sections
9. Page 24, line 8 through page 25, line 7.
Strike: section 15 in its entirety
Re-number: subsequent section